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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,788	12/01/2003	Stewart A. Levesque	97895.00118	1909

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McCARTER & ENGLISH, LLP

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EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/724,788	Applicant(s) LEVESQUE ET AL.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to a door assembly, classified in class 049, subclass 193.
- II. Claims 17-20, drawn to a method of mounting a door assembly to a structure, classified in class 049, subclass 506.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using that product such as providing a mounting structure that only has one pair of mounting extensions so that door assembly is only pivotable about one of the latching subassemblies depending on the configuration of the mounting structure.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Basam E. Nabulsi on March 30, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-16. Affirmation of this election must be made by applicant in replying to this

Art Unit: 3634

Office action. Claims 17-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

The drawings are objected to because the lead lines for reference characters 116 and 118 in figure 4 do not accurately indicate the arcuate faces. Figures 7 and 8 require the proper cross sectional shading in accordance with MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

Art Unit: 3634

must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because recitations such as "are provided" on line 2 and line 11 and "as well as . . . applications" on lines 11-12 can be easily implied and therefore should be deleted. On line 5, "the latching assembly" is confusing since it is unclear if the applicant is referring to the latching subassembly set forth above or is attempting to set forth another element of the invention in addition to the one set forth above. On lines 7, 8 and 9-10, "a mounting structure" is confusing since it is unclear if the applicant is referring to the mounting structure set forth above or

Art Unit: 3634

is attempting to set forth another mounting structure in addition to the one set forth above. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because each of the figures 6A, 6B, 10A and 10B should be described separately. It appears that "104" on line 8 of page 10 should be changed to --106--. On line 7 of page 16, the status of the copending application should be updated.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the alternative axes pivoting.

Claim Rejections - 35 USC § 112

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "may be" on line 12 of claim 1 render the claims indefinite because it is unclear if each of the slots is rotatable or not. It is suggested that the applicant change "may be rotated" on line 12 and throughout the claims where appropriate to --is rotatable-- to avoid confusion. Recitations such as "a mounting structure" on line 14 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the mounting structure set forth above or is attempting to set forth another mounting structure in addition to the one set forth above. Recitations such

Art Unit: 3634

as "or" on line 14 of claim 1 render the claims indefinite because it is unclear how a latch element disposed in the first guide channel can have a slot that captures a mounting structure in the second guide channel. Also see "or" on line 2 of claim 2 which suffers from the same problem. Recitations such as "said latching subassembly" on lines 3-4 of claim 3 render the claims indefinite because it is unclear to which one of the plurality of latching subassemblies set forth above the applicant is referring. Recitations such as "therewith" on line 2 of claim 6 render the claims indefinite because it is unclear with what other element of the invention the inner channel wall forms a channel region. Recitations such as "said handle portion . . . latch members" on lines 2-3 of claim 9 render the claims indefinite because it is unclear how the elongated latch members have a handle when claim 1 sets forth the latching subassemblies having the handles. Recitations such as "said wall component" on line 3 of claim 9 and "said arcuate faces" on line 4 of claim 9 render the claims indefinite because they lack antecedent basis. Recitations such as "at least one of said upward and downward projections" on line 16 of claim 15 render the claims indefinite because it is unclear how an upward projection of the left hand side of the cage assembly and a downward projection on the right hand side of the cage assembly can be both be received by one of the latching subassemblies.

Allowable Subject Matter

Claims 1-16, as best understood by the examiner, would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach a pair of latching subassemblies that are rotatably mounted with respect to said first and second guide channels, respectively, each of said pair of latching subassemblies including an elongated latch member, a pair of latch elements mounted with respect to said elongated latch member, and an accessible handle portion, wherein each of said pair of latch elements defines a slot that may be rotated between a first position wherein a mounting structure may be received by said slot and a second position wherein a mounting structure may be captured by said slot and said first or second guide channel. See lines 7-15 of claim 1 and lines 10-18 of claim 15.

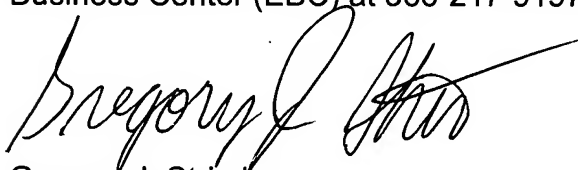
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Early, Park, Wissinger et al., Rinderer, Hathcock, Herzog et al., Howell, Nhep et al., Krietzman et al. and Song are cited for disclosing a door panel pivotable about two alternative axes.

Art Unit: 3634

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Gregory J. Strimbu', with a stylized flourish extending from the end.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
April 1, 2005